

STATE PERSONNEL BOARD CALENDAR



NOVEMBER 1, 2005

SAN DIEGO, CALIFORNIA

State of California

Memorandum

DATE: **October 21, 2005**

TO: ALL INTERESTED PARTIES

FROM: **STATE PERSONNEL BOARD** – Executive Division

SUBJECT: Notice and Agenda for the **November 1, 2005**, meeting of the State Personnel Board.

PLEASE TAKE NOTICE that on November 1, 2005, at the **Holiday Inn Express, Old Town, located on 3900 Old Town Avenue San Diego, California 92110**, the State Personnel Board will hold its regularly scheduled meeting. Pursuant to Government Code section 11123, a teleconference location may be conducted for this meeting at 320 W. 4th Street, Los Angeles, California.

The attached Agenda provides a brief description of each item to be considered and lists the date and approximate time for discussion of the item.

Also noted is whether the item will be considered in closed or public session. Closed sessions are closed to members of the public. All discussions held in public sessions are open to those interested in attending. Interested members of the public who wish to address the Board on a public session item may request the opportunity to do so.

Should you wish to obtain a copy of any of the items considered in the public sessions for the November 1, 2005, meeting, please contact staff in the Secretariat's Office, State Personnel Board, 801 Capitol Mall, MS 22, Sacramento, California 95814 or by calling (916) 653-0429 or TDD (916) 654-2360, or the Internet at:

<http://www.spb.ca.gov/calendar.htm>

Should you have any questions regarding this Notice and Agenda, please contact staff in the Secretariat's Office at the address or telephone numbers above.



Pui Fong
Secretariat's Office

Attachment



CALIFORNIA STATE PERSONNEL BOARD MEETING¹

801 Capitol Mall
Sacramento, California

Public Session Location –

**Holiday Inn Express, Old Town
3900 Old Town Avenue**

San Diego, California 92110, Mission Room

Teleconference – 320 West 4th Street²

Los Angeles, California, Suite 620

Closed Session Location –

Holiday Inn Express, Old Town

3900 Old Town Avenue

San Diego, California 92110, Old Town Room

Teleconference – 320 West 4th Street

Los Angeles, California Suite 620

FULL BOARD MEETING – NOVEMBER 1, 2005

¹ Sign Language Interpreter will be provided for Board Meeting upon request - contact Secretariat at (916) 653-0429, or CALNET 453-0429, TDD (916) 654-2360.

²Pursuant to Government Code section 11123, a teleconference location may be conducted for this meeting at 320 West 4th Street, Los Angeles, California.

FULL BOARD MEETING AGENDA³

NOVEMBER 1, 2005
9:00 a.m. – 2:00 p.m.
(or upon completion of business)

PLEASE NOTE: ALL TIMES ARE APPROXIMATE AND ARE SUBJECT TO CHANGE

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

(9:00 a.m. – 9:30 a.m.)

1. **ROLL CALL**
2. **REPORT OF THE EXECUTIVE OFFICER – Floyd D. Shimomura**
3. **REPORT ON THE PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS)
– Ron Alvarado**
4. **REPORT OF THE CHIEF COUNSEL – Elise Rose**
5. **NEW BUSINESS**

Items may be raised by Board Members for scheduling and discussion for future meetings.

6. **REPORT ON LEGISLATION – Sherry Hicks**

The Board may be asked to adopt a position with respect to the bills listed on the legislation memorandum attached hereto.

(9:30 a.m. – 10:00 a.m.)

7. **ORAL ARGUMENT**

Oral argument in the matter of **PATRICK BRASS, CASE NO.04-1952A**. Appeal from dismissal. Youth Correctional Counselor. Department of the Youth Authority.

³ The Agenda for the Board can be obtained at the following internet address:
<http://www.spb.ca.gov/calendar.htm>

(10:00 a.m. – 10:30 a.m.)

8. ORAL ARGUMENT

Oral argument in the matter of **GARY GARFINKLE, CASE NO.98-3128RBA**.
Appeal for determination of back salary, benefits and interest. Deputy Attorney
General IV. Department of Justice.

CLOSED SESSION OF THE STATE PERSONNEL BOARD

(10:30 a.m. – 11:00 a.m.)

**9. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND
OTHER APPEALS**

Deliberations to consider matter submitted at prior hearing.
[Government Code Sections 11126(d), 18653.]

**10. DELIBERATION ON ADVERSE ACTIONS, DISCRIMINATION COMPLAINTS,
AND OTHER PROPOSED DECISIONS SUBMITTED BY ADMINISTRATIVE
LAW JUDGES**

Deliberations on matters submitted at prior hearing; on proposed, rejected,
remanded, and submitted decisions; petitions for rehearing; and other matters
related to cases heard by administrative law judges of the State Personnel Board
or by the Board itself. [Government Code Sections 11126 (d), and 18653 (2).]

11. PENDING LITIGATION

Conference with legal counsel to confer with and receive advice regarding
pending litigation when discussion in open session would be prejudicial.
[Government Code sections 11126(e)(1) and 18653.]

State Personnel Board v. Department of Personnel Administration,
California Supreme Court Case No. S119498.

State Personnel Board v. California State Employees Association,
California Supreme Court Case No. S122058.

Connerly v. State Personnel Board, California Supreme Court,
Case No. S125502.

International Union of Operating Engineers v. State Personnel Board,
Public Employment Relations Board (PERB) Case No. SA-CE-1295-S.

State Compensation Ins. Fund v. State Personnel Board/CSEA,
Sacramento Superior Court No. 04CS00049.

SEIU Local 1000 (CSEA) v. State Personnel Board,
Sacramento Superior Court No. 05CS00374.

The Copley Press, Inc. v. San Diego Superior Court,
California Supreme Court No. S128603.

Union of American Physicians and Dentists v. Department of Corrections, et al.,
United States District Court, Northern District of California.

12. RECOMMENDATIONS TO THE LEGISLATURE

Deliberations on recommendations to the legislature.
[Government Code section 18653.]

13. RECOMMENDATIONS TO THE GOVERNOR

Deliberations on recommendations to the Governor.
[Government Code section 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

(11:00 a.m. – 11:15 a.m.)

**14. DISCUSSION OF COMING BOARD MEETING SCHEDULE OF
NOVEMBER 15, 2005, IN SACRAMENTO, CALIFORNIA**

BOARD ACTIONS:

**15. ADOPTION OF THE STATE PERSONNEL BOARD SUMMARY MINUTES OF
OCTOBER 3, 2005**

16. EVIDENTIARY CASES - (See Case Listings on Page 10-15)

**17. RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE
SECTION 18671.1 EXTENSION - (See Agenda Page 21-22)**

18. NON-EVIDENTIARY CASES - (See Case Listings on Page 16-18)

19. NON-HEARING CALENDAR

The following proposals are made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff. It is anticipated that the Board will act on these proposals without a hearing.

Anyone with concerns or opposition to any of these proposals should submit a written notice to the Executive Officer clearly stating the nature of the concern or opposition. Such notice should explain how the issue in dispute is a merit employment matter within the Board's scope of authority as set forth in the State Civil Service Act (Government Code section 18500 et seq.) and Article VII, California Constitution. Matters within the Board's scope of authority include, but are not limited to, personnel selection, employee status, discrimination and affirmative action. Matters outside the Board's scope of authority include, but are not limited to, compensation, employee benefits, position allocation, and organization structure. Such notice must be received not later than close of business on the Wednesday before the Board meeting at which the proposal is

scheduled. Such notice from an exclusive bargaining representative will not be entertained after this deadline, provided the representative has received advance notice of the classification proposal pursuant to the applicable memorandum of understanding. In investigating matters outlined above, the Executive Officer shall act as the Board's authorized representative and recommend the Board either act on the proposals as submitted without a hearing or schedule the items for a hearing, including a staff recommendation on resolution of the merit issues in dispute.

- A. THE DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL (ABC)** proposes to modify the minimum qualifications for the Deputy Division Chief (DDC), ABC, classification by reducing the minimum service required for its Pattern I from two years to one year and for Pattern II from five years to three years. This will permit candidates in the District Administrator, ABC, class to compete for the DDC, ABC, class in a timelier manner.

20. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

NONE

21. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

This section of the Agenda serves to inform interested individuals and departments of proposed and approved CEA position actions.

The first section lists position actions that have been proposed and are currently under consideration.

Any parties having concerns with the merits of a proposed CEA position action should submit their concerns in writing to the Classification and Compensation Division of the Department of Personnel Administration, the Merit Employment and

Technical Resources Division of the State Personnel Board, and the department proposing the action.

To assure adequate time to consider objections to a CEA position action, issues should be presented immediately upon receipt of the State Personnel Board Agenda in which the proposed position action is noticed as being under consideration, and generally no later than a week to ten days after its publication.

In cases where a merit issue has been raised regarding a proposed CEA position action and the dispute cannot be resolved, a hearing before the five-member Board may be scheduled. If no merit issues are raised regarding a proposed CEA position action, and it is approved by the State Personnel Board, the action becomes effective without further action by the Board.

The second section of this portion of the Agenda reports those position actions that have been approved. They are effective as of the date they were approved by the Executive Officer of the State Personnel Board.

A. REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS CURRENTLY UNDER CONSIDERATION

SPECIAL ASSISTANT, FINANCIAL SURVEILLANCE BRANCH

The Department of Insurance proposes to allocate the above position to the CEA category. The Special Assistant plans and directs highly complex and sensitive special projects; and provides policy influencing advice on a variety of financial, regulatory, legislative, and insurance industry solvency issues.

ASSISTANT DEPUTY PROJECT DIRECTOR, PROJECT ADMINISTRATION AND NETWORK SERVICES

The Department of Franchise Tax Board proposes to allocate the above position to the CEA category. The Assistant Deputy Project Director is responsible for management oversight and support in the overall development and management of the California Child Support Automation System budget and related contracts.

**DEPUTY DIRECTOR, EXTERNAL AND LEGISLATIVE AFFAIRS
DEPARTMENT**

The Board of Equalization proposes to allocate the above position to the CEA category. The Deputy Director is responsible for developing and implementing a comprehensive, agency-wide media information plan and overseeing Legislation, Education Outreach, Media Relations, E-Government and Taxpayer Services and Research and Statistics.

**LEGISLATIVE COUNSEL, EXTERNAL AND LEGISLATIVE AFFAIRS
DEPARTMENT**

The Board of Equalization proposes to allocate the above position to the CEA category. The Legislative Counsel plans, manages, and directs the work of the Legislative Division.

CHIEF, E-GOVERNMENT AND TAXPAYER SERVICES DIVISION

The Board of Equalization proposes to allocate the above position to the CEA category. The Chief is responsible for development of taxpayer education material, and the development of improved customer and taxpayer information access through e-government.

CHIEF, HEADQUARTERS OPERATIONS DIVISION

The Board of Equalization proposes to allocate the above position to the CEA category. The Chief, Headquarters Operations Division is responsible for formulating, recommending and implementing audit and compliance policies, procedures, practices and standards to ensure the Sales and Use Tax Law and rules are uniformly interpreted and applied statewide.

MANAGER, RESEARCH AND STATISTICS SECTION

The Board of Equalization proposes to allocate the above position to the CEA category. The Manager plans, directs, manages, and evaluates the staff and activities of the section, and serves as the Board of Equalization's chief research and statistical advisor.

**B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO
ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS**

NONE

22. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, & OTHER APPEALS

Deliberations to consider matter submitted at prior hearing. [Government Code sections 11126(d), 18653.]

NONE

23. PRESENTATION OF EMERGENCY ITEMS AS NECESSARY

24. BOARD ACTIONS ON SUBMITTED ITEMS – (See Agenda - Page 19-20)

These items have been taken under submission by the State Personnel Board at a prior meeting and may be before the Board for a vote at this meeting. This list does not include evidentiary cases, as those are listed separately by category on this agenda under Evidentiary Cases.

(11:15 a.m. – 11:45 a.m.)

25. WORKFORCE PLANNING – Mary Fernandez and Daryll Tsujihara

State Personnel Board (SPB) staff and Department of Personnel Administration (DPA) staff will provide an informational briefing on Workforce Planning. Topics to be discussed are the CPR Workforce Development Team recommendations, as well as Workforce Planning initiatives currently underway and planned at SPB and DPA.

LUNCH

(11:45 a.m. – 1:00 p.m.)

CLOSED SESSION OF THE STATE PERSONNEL BOARD

(1:00 p.m. – 1:30 p.m.)

26. POST AND BID DISCUSSION – Elise Rose

Board to discuss impact and effect of SPB v. CSEA

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

(1:30 p.m. – 2:00 p.m.)

27. PROPOSED BUDGET CHANGE PROPOSALS (BCPs) – Mary Fernandez and Daryll Tsujihara

DPA and SPB staff will outline joint BCPs recently discussed with the Governor's Office and the Department of Finance. These proposals address issues outlined in the California Performance Review and Little Hoover Commission reports, including Workforce Planning, Classification and Selection Reform and a single Human Resources (HR) Portal for the state.

A D J O U R N M E N T

16. EVIDENTIARY CASES

The Board Administrative Law Judges conduct evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

A. BOARD CASES SUBMITTED

These items have been taken under submission by the State Personnel Board at a prior meeting. Cases that are before the Board for vote will be provided under separate cover.

(1) **PATRICK BARBER, CASE NO. 04-0174PA**

Appeal from dismissal

Classification: Youth Correctional Counselor

Department: Department of the Youth Authority

Proposed decision adopted November 3, 2004
modifying dismissal to 45 calendar days suspension

Transcript prepared

Pending oral argument June 7, 2005, Sacramento

Oral argument continued

Oral argument heard July 13, 2005, Sacramento

Case ready for decision by FULL Board

(2) **JON CHASE, CASE NO. 04-0392A**

Appeal from 30 working days suspension

Classification: Associate Management Auditor

Department: Employment Development Department

Proposed decision rejected April 19, 2005

Transcript prepared

Pending oral argument July 13, 2005, Sacramento

Oral argument continued

Oral argument heard August 9, 2005, Sacramento

Case ready for decision by FULL Board

(3) **JOSEPH MARTINEZ, CASE NO. 04- 2690A**

Appeal from dismissal

Classification: Hospital Police Officer

Department: Department of Mental Health

Proposed decision rejected May 17, 2005

Transcript prepared

Oral argument heard August 30, 2005, Los Angeles

Case ready for decision by FULL Board

- (4) **ANDREW RUIZ, CASE NO. 04-2391A**
Appeal from dismissal
Classification: Correctional Lieutenant
Department: Department of Corrections

Proposed decision rejected June 7, 2005
Transcript prepared
Oral argument heard August 30, 2005, Los Angeles
Case ready for decision by FULL Board

- (5) **MARK SAMORA, CASE NO. 04-3091A**
Appeal from dismissal
Classification: Information Technology Consultant
Department: California State University, Los Angeles

Proposed decision rejected July 13, 2005
Transcript prepared
Oral argument heard October 3, 2005, Sacramento
Case ready for decision by FULL Board

B. CASES PENDING

ORAL ARGUMENTS

These cases are on calendar to be argued at this meeting or to be considered by the Board in closed session based on written arguments submitted by the parties.

- (1) **PATRICK BRASS, CASE NO. 04-1952A**
Appeal from dismissal
Classification: Youth Correctional Counselor
Department: Department of the Youth Authority
- (2) **GARY GARFINKEL, CASE NO. 98-3128RBA**
Appeal from dismissal
Classification: Deputy Attorney General IV
Department: Department of Justice

C. CHIEF COUNSEL RESOLUTIONS

- (1) **WARREN SMITH, CASE NO. 05-1042**
Appeal from dismissal
Classification: Psychiatric Technician
Department: Department of Developmental Services

COURT REMANDS

These cases have been remanded to the Board by the court for further Board action.

NONE

STIPULATIONS

These stipulations have been submitted to the Board for Board approval, pursuant to Government Code, section 18681.

NONE

OTHERS

- (1) **CAROL BIRCH, CASE NO. 05-3330**
Seeking a correction to the record of her appointment to Associate Governmental Program Analyst with the Department of Water Resources.
Classification: Associate Governmental Program Analyst
Department: Department of Water Resources

D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS

PROPOSED DECISIONS

These are ALJ proposed decisions submitted to the Board for the first time.

- (1) **TODD ACOSTA, CASE NO. 05-1766**
Appeal from 22 work days suspension
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
- (2) **EUSTACE DOUGLAS, CASE NO. 05-1530**
Appeal from five working days suspension
Classification: Senior Health Physicist
Department: Department of Health Services
- (3) **AARON FOUCH, CASE NO. 05-2526**
Appeal from dismissal
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation

- (4) **ANTINO KEENE, CASE NO. 05-1562**
Appeal from dismissal
Classification: Correctional Officer
Department: Department of Corrections
- (5) **JOSHUA D. LONZO, CASE NO. 05-0452**
Appeal from 15 work days suspension
Classification: Officer
Department: Department of California Highway Patrol
- (6) **DANIEL MILROY, CASE NO. 05-0828**
Appeal from five percent reduction in salary for 12 months
Classification: Correctional Officer
Department: Department of Corrections
- (7) **EDUARDO PEREZ, CASE NO. 05-0763**
Appeal from five percent reduction in salary for six months
Classification: Parole Agent I (Adult Parole)
Department: Department of Corrections

Proposed Decisions Taken Under Submission At Prior Meeting

These are ALJ proposed decisions taken under submission at a prior Board meeting, for lack of majority vote or other reason.

NONE

PROPOSED DECISIONS AFTER BOARD REMAND

NONE

PROPOSED DECISIONS AFTER SPB ARBITRATION

NONE

E. PETITIONS FOR REHEARING

ALJ PROPOSED DECISIONS ADOPTED BY THE BOARD

The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

- (1) **DELORES CASILLAS, CASE NO. 05-1017EP**
Appeal from discrimination complaint
Classification: Motor Vehicle Assistant
Department: Department of Motor Vehicles

- (2) **WILLIAM JOHNSON, CASE NO. 04-1799P**
Appeal from five working days suspension
Classification: Correctional Health Services Administrator I, CF
Department: Department of Corrections
- (3) **PAUL MINER, CASE NO. 05-0858P**
Appeal from dismissal
Classification: Correctional Counselor I
Department: Department of Corrections

WHISTLEBLOWER NOTICE OF FINDINGS

The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a Notice of Findings issued by the Executive Officer under Government Code, section 19682 et seq. and Title 2, California Code of Regulations, section 56 et seq.

NONE

F. PENDING BOARD REVIEW

These cases are pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

- (1) **PATRICK BRASS, CASE NO. 04-1952A**
Appeal from dismissal
Classification: Youth Correctional Counselor
Department: Department of the Youth Authority
- Proposed decision rejected July 26, 2005
Transcript prepared
Pending oral argument November 1, 2005, San Diego
- (2) **LINDA DEOS, CASE NO. 05-0434A**
Appeal from dismissal
Classification: Staff Counsel III (Specialist)
Department: Employment Development Department
- Proposed decision rejected August 30, 2005
Transcript prepared
Pending oral argument December 6-7, 2005, San Francisco

- (3) **GARY GARFINKEL, CASE NO. 98-3128RBA**
Appeal for determination of back salary, benefits and interest
Classification: Deputy Attorney General IV
Department: Department of Justice

Proposed decision rejected July 13, 2005
Transcript prepared
Pending oral argument October 3, 2005, Sacramento
Oral argument continued
Pending oral argument November 1, 2005, San Diego

- (4) **MINAS MAROKI, CASE NO. 04- 2700A**
Appeal from dismissal
Classification: Correctional Officer
Department: Department of Corrections

Proposed decision rejected August 9, 2005
Transcript prepared
Pending oral argument November 1-2, 2005, San Diego
Oral argument cancelled, parties settling

- (5) **KIM RITTENHOUSE, CASE NOs. 03-3541A & 03-3542E**
Appeal from denial of reasonable accommodation
and from constructive medical termination
Classification: Office Technician (General)
Department: Department of Fish and Game

Proposed decision rejected May 18, 2004
Pending oral argument October 3, 2005, Sacramento
Oral argument continued
Pending oral argument December 6-7, 2005, San Francisco

18. NON-EVIDENTIARY CASES

A. WITHHOLD APPEALS

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board will be presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

WITHHOLD FROM CERTIFICATION
CASES HEARD BY A STAFF HEARING OFFICER

NONE

WITHHOLD FROM CERTIFICATION
CASES NOT HEARD BY A STAFF HEARING OFFICER

- (1) RONALD LIMON, CASE NO. 04-2987**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; furnished inaccurate information, omitted pertinent information, negative driving, arrest and conviction record and minimum education requirements.
- (2) DONNA PINEDA, CASE NO. 05-0613**
Classification: Associate Governmental Program Analyst
Department: California Department of Education
Issue: Whether appellant was properly withheld for not meeting the Minimum Qualifications.
- (3) CRAIG RICHARD, CASE NO. 05-0279**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability and furnishing inaccurate information.
- (4) DAVID RINGLE, CASE NO. 04-2887**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability and omitted pertinent information.
- (5) JOANNA RIVERA, CASE NO. 04-2885**
Classification: Medical Technician Assistant (MTA)
Department: Corrections
Issue: Suitability; furnished inaccurate information and omitted pertinent information.

(6) DAMIEN SANTINI, CASE NO. 05-0283

Classification: Correctional Officer

Department: Corrections

Issue: Provided inaccurate information.

(7) ISAURO VILLARREAL, CASE NO. 05-0282

Classification: Correctional Officer

Department: Corrections

Issue: Suitability and furnishing inaccurate information.

B. MEDICAL AND PSYCHOLOGICAL SCREENING APPEALS

Cases heard by a Staff Hearing Panel comprised of a managerial staff member of the State Personnel Board and a medical professional. The Board will be presented recommendations by a Hearing Panel on each appeal.

NONE

**C. EXAMINATION APPEALS
MINIMUM QUALIFICATIONS
MERIT ISSUE COMPLAINTS**

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board will be presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

EXAMINATION APPEALS

NONE

MINIMUM QUALIFICATIONS

NONE

MERIT ISSUE COMPLAINTS

NONE

**D. RULE 211 APPEALS
 RULE 212 OUT OF CLASS APPEALS
 VOIDED APPOINTMENT APPEALS**

Cases heard by a Staff Hearing Officer, or a managerial staff member of the State Personnel Board. The Board will be presented recommendations by a Staff Hearing Officer for final decision on each appeal.

NONE

E. REQUEST TO FILE CHARGES CASES

Investigated by Appeals Division staff. The Board will be presented recommendations by Appeals Division staff for final decision on each request.

NONE

PETITIONS FOR REHEARING CASES

(1) THOMAS MAUNE, CASE NO. 04-2178P

Classification: Special Investigator I

Department: Department of Mental Health

Issue: Whether SPB erred in upholding the Psychological Screening Unit's decision to psychologically disqualify the appellant.

SUBMITTED

1. TEACHER STATE HOSPITAL (SEVERELY), ETC.

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

2. VOCATIONAL INSTRUCTOR (SAFETY)(VARIOUS SPECIALTIES)

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

3. TELEVISION SPECIALIST (SAFETY)

The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003.)

4. HEARING – Personal Services Contract #04-03

Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Hearing held August 12, 2004.)

5. HEARING

Proposed new and revised State Personnel Board Regulations effecting equal opportunity, discrimination complaints and reasonable accommodation policies and procedures. (Hearing held July 7, 2004.)

6. PATRICK BARBER, CASE NO. 04-0174A.

Appeal from dismissal. Youth Correctional Officer. Department of Youth Authority. (Oral Argument held July 13, 2005)

7. JON CHASE, CASE NO. 04-0392A.

Appeal from 30 working days suspension. Associate Management Auditor. Employment Development Department. (Oral Argument held August 9, 2005)

8. HEARING – PERSONAL SERVICES CONTRACT # 05-07

Appeal of Department of General Services (DGS) from the Executive Officer's April 22, 2005 Disapproval of a Proposed Three-Year Cost-Savings Contract with American Building Maintenance janitorial Services for Custodial Services for the Franchise Tax Board. (Hearing held August 9, 2005)

9. JOSEPH MARTINEZ, CASE NO. 04-2690A

Appeal from dismissal. Hospital Police Officer. Department of Mental Health.
(Oral Argument held August 30, 2005)

10. ANDREW RUIZ, CASE NO. 04-2391A

Appeal from dismissal. Correctional Lieutenant. Department of Corrections.
(Oral Argument held August 30, 2005)

11. HEARING

Proposed Revisions to Whistleblower Retaliation Complaint Regulations
(Title 2, C.C.R., section 56 et. seq.) (Hearings held on September 20, 2005 and
October 3, 2005)

12. HEARING

Proposed Revisions to Discovery Regulations in Evidentiary Hearings Regulations
(Title 2, C.C.R., section 57 et. seq.) (Hearings held on September 20, 2005 and
October 3, 2005)

NOTICE OF GOVERNMENT CODE SECTION 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

GOVERNMENT CODE SECTION 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code section 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *



1

(Cal. 11/01/05;)

TO: Members
State Personnel Board

FROM: State Personnel Board - Legislative Office

SUBJECT: LEGISLATION

There is no written legislative report at this time. I will give a verbal presentation on any legislative action that has taken place that will be of interest to the Board.

Please contact me directly should you have any questions or comments regarding any bills that you may have an interest in. I can be reached at (916) 653-0453.


Sherry Hicks
Director of Legislation

Attachment

STATE PERSONNEL BOARD

NON-HEARING CALENDAR

RE: BOARD DATE NOVEMBER 1, 2005

(Cal. 11/01/05;)

MEMO TO : STATE PERSONNEL BOARD
FROM : KAREN COFFEE, Chief, Merit Employment and
Technical Resources Division
SUBJECT : Non-Hearing Calendar Items for Board Action

The staff has evaluated these items and recommend the following actions be taken:

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- A. The Department of Alcoholic Beverage Control (ABC)** 201
proposes to modify the minimum qualifications for the Deputy Division Chief (DDC), ABC, classification by reducing the minimum service required for its Pattern I from two years to one year and for Pattern II from five years to three years. This will permit candidates in the District Administrator, ABC, class to compete for the DDC, ABC, class in a timelier manner.

Memorandum

To: Karen Coffee
Chief, Merit Employment and Technical
Resources Division
State Personnel Board
801 Capitol Mall
Sacramento, CA 95814

Date: October 1, 2005

From: Department of Alcoholic Beverage Control
Director's Office
3927 Lennane Drive, Suite 100
Sacramento, CA 95834

Subject: Deputy Division Chief (DDC) Board Item Revision

As requested, the Department of Alcoholic Beverage Control (ABC) is submitting additional information to support our request to revise the minimum qualifications (MQs) for the Deputy Division Chief, Alcoholic Beverage Control (DDC, ABC) classification specification. This item was scheduled for the September 20th Board meeting but was withdrawn to gather additional data. Here is the data requested:

STATISTICAL SUMMARY

This request is driven by our operational expectation of a minimum of 3 vacant DDC positions in the next 6 months. Although the current list has 5 candidates, only 1 of them is located in an office in Southern California and we believe we need to offer this exam immediately in order to provide a broader candidate pool for these critical management positions.

Regarding the request to reduce the Minimum Qualifications from 2 to 1 year as a District Administrator, this change will allow 4 additional promotional candidates to apply for this exam and 3 of those candidates would be from our offices in Southern California. Under the present set of requirements, 13 employees in the District Administrator classification could compete (4 in S. California and 9 in N. California); but we know that due to pending retirement plans, at least 4 of these employees will not apply for this exam and 2 of those four are in Southern California.

In summary, if we can reduce the MQ to 1 year, we will have a universe of 17 candidates, 13 for all practical planning purposes, and provide us with a larger geographical pool of candidates. This increase to the number of candidates eligible to compete is critical for our pending vacancies in Southern California since 3 of the candidates with only the 1 year of experience are in ABC offices in that part of the state.

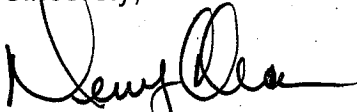
Letter to Karen Coffee re: DDC Board Item
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SUCCESSION PLAN

While ABC is concerned about the number of eligible candidates to promote to the position of Deputy Division Chief, this Department has no interest in or intention of promoting employees who are not ready for the increased level of responsibility. As part of the succession planning process, the current Assistant Directors and Deputy Division Chiefs are actively mentoring and coaching all current District Administrators in order to develop the critical skills needed for executive leadership roles. In addition, as part of our Agency's Performance Improvement Initiative, the ABC Executive Staff has been able to identify additional knowledge and skill areas to support performance management and we have made those skills a key component of our internal evaluation process. Finally, since the selection process will only establish eligibility for promotion, we still intend to use the hiring interview to ensure that only qualified and competent employees are promoted.

Thank you for your consideration of this additional information and if you have any further questions and/or concerns, please contact me at (916) 419-2511.

Sincerely,



Dennis J. Clear
Assistant Director, Administration